

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GOLDSTAR MEDICAL CORP., :

Plaintiff, :

- against - :

CAPRIUS, INC., and MCM :
ENVIRONMENTAL TECHNOLOGIES, INC., :

Defendants. :

- - - - -x

CHIN, District Judge

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ORDER


07 Civ. 11269 (DC)

Defendants moved to dismiss the complaint for lack of subject matter jurisdiction on the basis that plaintiff cannot prove the amount in controversy. In reviewing the papers, however, the Court noted an issue, not raised by the parties, as to whether complete diversity exists. The complaint specifies that plaintiff is incorporated in Delaware and it is imprecise as to plaintiff's principal place of business. (Compl. ¶ 12). More importantly, the complaint does not allege the state of incorporation for either of the corporate defendants (nor does it state their principal place of business). In their memorandum of law, defendants represent that Caprius is a Delaware corporation. (Def. Mem. 1). If it is correct that plaintiff is incorporated in Delaware and Caprius also is a Delaware corporation, this Court does not have subject matter jurisdiction for complete diversity would be lacking. The parties shall advise the Court

in writing by the close of business tomorrow of both the state of incorporation and principal place of business for all three parties.

SO ORDERED.

Dated: New York, New York
June 23, 2008



DENNY CHIN
United States District Judge